



POLICE DEPARTMENT

August 7, 2015

MEMORANDUM FOR: Police Commissioner

Re: Captain Thomas Passolo
Tax Registry No. 924312
79 Precinct
Disciplinary Case Nos. 2013 10901 & 2015-13190

The above-named member of the Department appeared before me on June 22 and June 24, 2015, charged with the following:

Disciplinary Case No. 2013-10901

1. Said LIEUTENANT THOMAS PASSOLO, on or about October 2, 2012, at approximately 1805 hours while assigned to the 81 PCT and on duty in the vicinity of 81 PCT station house, abused his authority as a member of the New York City Police Department, in that he authorized a strip search of Person A without sufficient legal authority.

P.G. 208-05, Page 2, Paragraph C – ARRESTS – GENERAL SEARCH
GUIDELINES

Disciplinary Case No. 2014-13190

1. Said CAPTAIN THOMAS PASSOLO, on or about February 15, 2014, at approximately 19:42 hours while assigned to the 81 PCT and on duty [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he entered the apartment of HAROLD DODDS without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT

2. Said CAPTAIN THOMAS PASSOLO, on or about February 15, 2014, at approximately 19:42 hours while assigned to the 81 PCT and on duty [REDACTED], engaged in conduct prejudicial to the good

order, efficiency or discipline of the New York City Police Department, in that he searched the apartment of HAROLD DODDS without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT

3. Said CAPTAIN THOMAS PASSOLO, on or about February 15, 2014, at approximately 19:42 hours while assigned to the 81 PCT and on duty [REDACTED], engaged in conduct prejudicial to the good order, efficiency or discipline of the New York City Police Department, in that he damaged the property of HAROLD DODDS without sufficient legal authority.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT

The Civilian Complaint Review Board (CCRB) was represented by Heather Cook, Esq. Respondent was represented by Louis LaPietra, Esq.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2013-10901

Respondent is found Guilty.

Disciplinary Case No. 2015-13190

Respondent is found Guilty of Specification 1. He is found Not Guilty of Specifications 2 and 3.

Disciplinary Case No. 2013-10901**SUMMARY OF EVIDENCE PRESENTED****CCRB's Case**

Person A did not appear as a witness; attempts to subpoena him to appear for this hearing were unsuccessful. Instead, CCRB introduced into evidence a recording of his interview with CCRB on October 11, 2012 (CCRB Ex. 2) and a transcript of that interview (CCRB Ex 1). Person A stated that at about 7:00 p.m. on October 2, 2012, he was riding his bicycle after school to his aunt's house when he was stopped by a male and female officer (fn. 1) for allegedly riding on the sidewalk; Person A denied to CCRB that he was actually riding on the sidewalk, though he acknowledged that he agreed to a guilty plea in Criminal Court in order to resolve the matter. Police asked Person A for identification, but he didn't have any with him. The officers patted him down and searched his pockets. Person A was placed in the rear of the police car with the female officer, and the male officer drove them to the 81st precinct. At the precinct, \$224 was recovered from his pockets; nothing else was recovered. Person A claimed he had that money for school books.

[Fn 1: In his statement, Person A referred to the male officer who stopped him as P.O. Hellberg, though later evidence at the trial clarified that the male officer who stopped him was actually Officer Jason Ianno, the female officer was Officer Person B, and that Officer Hellberg was only assigned the arrest afterward.]

According to Person A, he was then taken to a holding cell where he was twice strip searched by the male officer. Person A then heard that officer have a brief conversation with the female officer about the previous search being "sloppy," and Person A was strip searched a third time. No property was recovered from Person A during any of these strip searches.

Respondent's Case

Police Officer Jason Ianno testified for Respondent. Officer Ianno stated that he was part of a team observing a drug- prone location in the area of Malcolm X and Jefferson Avenue in Brooklyn. Officer Ianno, who was a few blocks away as part of the apprehension team with his partner Officer Person B, received a radio call of a male on a bicycle leaving the target area after "interacting with a known drug-dealer;" there was no indication that the individual was actually selling or buying narcotics (Tr. 103). The officer then observed Person A riding his bicycle on the sidewalk. Officer Ianno stopped Person A, who he described as sweating and nervous, with his heart beating rapidly. Person A did not produce identification, but provided his name; the officers did a name-check, which revealed that Person A had an open warrant. Based on the warrant and riding his bike on the sidewalk, Person A was handcuffed. The officers frisked him, searched his pockets and clothing, and checked his body at the scene (Tr. 86-88); no weapons or contraband were recovered (Tr. 113).

As Officer Ianno was driving Person A to the precinct, the officers observed Person A "fidgeting" in the back seat; Person A's hands were moving around "behind his back where he was handcuffed, moving around by the waistband." Both officers told Person A to stop

fidgeting, because they were concerned Person A might have something on his person that they failed to discover at the scene, such as contraband or a cuff key. Person A was told to stop several times, but did not listen to the officers' requests (Tr. 88-89, 98). At the precinct they did another quick search at the front desk, vouchered the 20 \$10 bills that had been recovered from Person A, and then decided that Person A should be strip searched. Officer Ianno explained that based on Person A's nervousness when he was stopped in a drug-prone area, and based on his fidgeting in the car and not listening to their commands that he stop fidgeting, both officers felt that Person A should be strip searched. (Tr. 91-92) Officer Ianno explained that he felt responsible for the prisoner, and was concerned that if it later turned out that Person A had a weapon or contraband on his person, he might be subject to discipline for failing to discover it (Tr. 92).

Once they had made the decision that Person A should be strip searched, the officers contacted Respondent, who was a Lieutenant at the time and their supervisor that day. Officer Ianno could not recall whether it was he or his partner who spoke with Respondent, but one of them explained to Respondent their reasons for believing that a strip search should be conducted (Tr. 98, 115). At the time the request for authorization was made to Respondent, Officer Ianno had not yet checked to see the crime for which Person A had a warrant (Tr. 114). Respondent granted permission, and the strip search was, in fact, conducted (Tr. 99).

At the time of the hearing, Officer Person B was out with an injury related to a car accident, and so a recording of her CCRB interview was admitted into evidence (Resp.'s Ex. C) as well as the transcript of the interview (Resp.'s Ex. B). Officer Person B's statement was essentially the same as Officer Ianno's description of how Person A was

stopped, and how he was fidgeting in the car while rear-cuffed on the way to the precinct. When asked if she could specifically tell whether Person A was "reaching for his pants or anything", Officer Person B responded, "No." Even though Officer Person B believed a strip search was appropriate based on Person A's being a known drug-dealer, and that he fidgeted in the police car even after being told to stop, she also stated that she did not speak with Respondent about authorizing the strip search, and was not sure how information requesting to do the search was communicated to Respondent.

Respondent, Captain Thomas Passolo, was appointed to the force in July 1999. Respondent testified that on the day of this incident he was the supervising Lieutenant of the 81st Precinct SNEU team. As the Special Operations Lieutenant, Respondent recommended the officers for his team, which included Officers Ianno and Person B.

Respondent testified that he received a telephone call requesting authorization to perform a strip search of Person A. Respondent was uncertain who called him, but he believed it to be Officer Person B (Tr. 184). Respondent was told that Person A had been riding his bicycle back and forth between drug locations, interacting with known drug dealers at those locations (two of whom Respondent was able to name) (Tr. 189, 191). Person A was searched at the scene, but no drugs were recovered (Tr. 214). In the police car on the way to the precinct, Person A was fidgeting in the back seat, reaching into his pants, and continued to fidget even after the officers asked him to stop. Respondent explained that this behavior raised the possibility that Person A was trying "to secrete narcotics in his person, underwear, rectum" (Tr. 185, 213). Based on the information provided, Respondent authorized the strip search (Tr. 190).

On cross examination, Respondent confirmed that there was no information that Person A had actually engaged in any drug-related transaction that day. Respondent also acknowledged that at the time he authorized the strip search, he did not know the crime for which Person A had an open warrant nor did he ask; he later learned that the warrant was for automobile theft (Tr. 193). Respondent had no interaction with Person A before that night, and had no information on whether Person A had any arrest history (Tr. 195). Respondent could not recall having any conversation with Officer Ianno prior to the strip search (Tr. 198).

FINDINGS AND ANALYSIS

The issue in this case is whether Respondent authorized the strip search of Person A without sufficient legal authority. NYPD Patrol Guide section 208-05 (C) places officers on notice as to the circumstances under which a strip search may be authorized. "A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods."

Before conducting a strip search, an officer must get approval from an immediate supervisor. The requesting officer is required to explain to the supervisor the factual basis for the request. Based on the facts presented, the supervisor must then determine whether a strip search should be conducted.

The Patrol Guide also lists factors that a supervisor should consider in determining whether a strip search should be authorized, including:

- the nature of the crime (i.e., serious violent felony);
- arrest circumstances;

- subject's reputation (i.e., extremely violent person);
- acts of violence;
- unaccounted "hits" on magnetometers or walk-through metal detectors;
- any discoveries or information from previous searches of the same individual or others arrested with him/her.

Here, there is no dispute that Respondent authorized the strip search of Person A, and that the prisoner was, in fact, strip searched. To be sure, there are credibility issues connected with Person A, based on his failure to appear to testify (after having settled a lawsuit against the City), and based on implausible statements he made about what he was doing before being stopped; but those credibility concerns have little bearing on the ultimate issue in this case, which centers on Respondent's decision to authorize the strip search. The question is whether Respondent had a sufficient basis for doing so. The Court finds that he did not, and that CCRB has met its burden of proving misconduct.

In assessing whether Respondent acted reasonably in authorizing the strip search, the focus is on what information Respondent possessed at the time he made his decision. To the extent that other officers may have had relevant information about Person A that was not shared with Respondent before he authorized the strip search, that additional information is not a factor in evaluating Respondent's decision since he did not know about it himself. For instance, there was nothing in Respondent's testimony to indicate that the 20 \$10 bills recovered from Person A was a factor in Respondent's decision, or that he even was aware of it; in fact, Respondent testified that he had been told only that the field test of Person A was negative. As such, the answer to the question of what information Respondent possessed when he authorized the strip search comes primarily from the testimony of Respondent himself.

Respondent was detailed and consistent in his testimony, answered questions willingly, and the Court credits his account of what happened that day. According to Respondent, he was aware that Person A had been observed riding his bicycle back and forth between two drug-prone locations, interacting with known drug-dealers, two of whom Respondent specifically named. He also was aware that Person A was then stopped and taken into custody for riding his bicycle on the sidewalk, and for having an open warrant. No drugs or contraband were recovered from Person A when he was searched at the scene. Respondent also was informed that Person A was fidgeting in the back of the police car on the way to the precinct, and ignored the officers' requests that he stop fidgeting. The Court is taking into account the entirety of this information in assessing the reasonableness of Respondent's conduct here.

When looking at the information Respondent possessed in conjunction with the relevant factors articulated in the Patrol Guide, there is minimal support for Respondent's decision:

1. The crime for which Person A was stopped was riding his bicycle on the sidewalk, a far cry from a "serious violent felony." Person A also had a warrant, but Respondent failed to learn the precise crime connected with that warrant before authorizing the strip search. Respondent provided no explanation as to why he did not make any efforts to find out relevant information such as this before deciding what to do.

2. The "arrest circumstances," as known to Respondent at the time, provide some support for Respondent's decision. Officers claimed to have observed Person A fidgeting in the back seat of the car, which Respondent interpreted as raising the "possibility" that the prisoner was trying to secrete contraband. However, even if the Court credits that the

officers really were able to observe Person A fidgeting, including Officer Ianno who was driving the car, there was not enough detail provided to reasonably conclude that Person A, who was handcuffed in a moving vehicle, was attempting to secrete something, as opposed to moving around for a more innocuous reason. From the evidence presented, neither Officer Ianno nor Officer Person B ever stated that they saw Person A reaching in his pants. Even though Person A had been seen interacting in a drug location, there was no evidence that he was actually involved in the sale or purchase of narcotics. Person A was frisked and searched at the scene, and no contraband was found. The Court also notes that despite evidence that Person A was sweating and his "heart beating out of his chest" when first stopped by police, there was no indication from Respondent's testimony that he was ever made aware of these factors.

3. Respondent acknowledged he had no prior interactions with Person A, and was unaware of his reputation at the time of the incident. He knew nothing about Person A's arrest history, including whether he had ever been accused of any weapons offenses. There was no suggestion of any previous searches of Person A. The Court does find it relevant that Person A was seen interacting with known drug dealers; however there was no testimony from Respondent that he knew Person A, himself, to be such a dealer.

The evidence suggests that in reaching his decision to authorize the strip search, Respondent relied on the minimal information provided by one of his officers, without taking any steps to learn additional information. The Court understands that Respondent had a role in hand-picking officers for his team, and trusted their instincts in requesting the strip search. But where, as here, the reasons justifying the search were underwhelming, the Court is concerned that Respondent, as the Special Operations

Lieutenant supervising the SNEU team, chose not to investigate further whether a strip search really was reasonable under the totality of circumstances. Respondent was over-reliant on the recommendations of his officers, at least one of whom seemed somewhat motivated by a desire to avoid possible discipline if contraband were later discovered. The information conveyed to Respondent did not create a reasonable suspicion that Person A was concealing weapons, contraband, or evidence that would not have been uncovered during the previous search. As such, the Court finds Respondent guilty of authorizing a strip search without sufficient legal authority.

Disciplinary Case No. 2015-13190

SUMMARY OF EVIDENCE PRESENTED

CCRB's Case

CCRB called Harold Dodds as a witness. Dodds testified that on February 15, 2014, at about 7:40 p.m., he was with his girlfriend Person C inside his apartment [REDACTED]. Dodds testified that they had a disagreement, she took some money and left the apartment. Once downstairs, Person C rang the bell and asked to come back in; when Dodds refused to let her in, she called the police (Tr. 32).

According to Dodds, from his window he saw two officers arrive and speak with Person C in front of the building. Dodds leaned his head and shoulders out the window, which was over a fire escape, and yelled out to them to keep her away from the building; Dodds denied ever actually stepping onto the fire escape. Officers then knocked on his door and asked to speak with Dodds, who was alone inside the apartment, but he was

"uncomfortable" opening the door. Through the closed door, Dodds told the officers he would give them whatever information they needed, but he would not come out unless a supervisor came to the location (Tr. 34, 54).

Dodds testified that there were several additional poundings on the door, and someone threatened to kick in the door if he did not open it. When Dodds still refused to open it, the door was kicked in, and Respondent was the first to enter the apartment (Tr. 35). Officers rushed into the apartment and threw Dodds to the ground, where he was handcuffed (Tr. 37). While on the floor, Dodds noticed officers, including Respondent, searching through his closets (Tr. 38-39). Dodds also stated that the apartment door already had some damage to it prior to the incident, but after it was kicked in the door was somewhat less secure against intruders (Tr. 36).

Dodds denied having put his hands around Person C's neck or inflicting any injuries, claiming he only grabbed her coat (Tr. 40-41). He acknowledged having a prior Burglary conviction from 1982, another felony conviction about 30 years ago involving a rental car, and a pending criminal matter in Supreme Court involving Person C (Tr. 41-45). He also admitted to multiple misdemeanor convictions, including at least one for narcotics. Dodds claimed he was unable to remember the specifics of any convictions in the past five years (Tr. 41-50).

CCRB also called Police Officer Amber LaGrandier of the Domestic Violence Unit as a witness. Officer LaGrandier testified that she arrived [REDACTED] in response to a radio run for an assault in progress. Other officers already present informed her that a female had been assaulted. Officer LaGrandier observed Dodds leaning out the window from the waist up (Tr. 65). The officer spoke with Person C, who told her that

Dodds had choked her while she was on the ground and he was on top of her, but that no weapons were used (Tr. 62, 76). Officer LaGrandier observed redness on Person C's neck, though she was not sure if it was from this incident (Tr. 72). Person C also told the officer that Dodds had drugs inside the apartment, and he was known to carry weapons (Tr. 75). The officer then went to the apartment door to try to persuade Dodds to come out, but he refused. Soon after, the officers contacted the patrol supervisor, and Respondent arrived at the location (Tr. 64).

Officer LaGrandier testified that she told Respondent about the assault, though she could not recall whether she mentioned the possibility of drugs or weapons in the apartment (Tr. 75). The officer then observed Respondent kick in the door to the apartment with one kick; she later filled out an Accident Report (CCRB Ex. 3) that reflects that there was damage to the door and lock of the apartment.

Respondent's Case

Respondent called Police Officer Gerard Cash as a witness. Officer Cash testified that he and his partner, Officer Melore, responded as backup to an incident at [REDACTED] a three or four story apartment building. The radio call was for an assault, with "no weapons seen." Upon arrival, the officer observed Dodds with his head and hands sticking out of a window yelling he did not want to be arrested. Outside the window was a fire escape that led to the roof, which was connected to adjoining buildings. Officer Cash then spoke with Person C, who said she had been assaulted by Dodds (Tr. 139-140, 145). After Respondent arrived, there were about eight officers on the scene. Officer Cash did not speak with Respondent at the location (Tr. 146-147).

Officer Salvatore Melore also testified as a witness for Respondent. Officer Melore essentially corroborated the testimony of his partner, Officer Cash. Officer Melore added that upon arrival at the location, he observed Person C, who was hysterical and had bruising on her body, including marks and scrapes on her neck. (Tr. 154, 160). Officer Melore initially stated that he did not speak directly with Respondent at the scene, but then said that he did relay to Respondent information regarding his interaction with Person C (Tr. 159, 160).

Respondent testified that he arrived [REDACTED] and spoke with Officer LaGrandier; she informed him that Person C had just been choked by Dodds, who was inside the apartment. The only additional information Respondent received from other officers at that time was the name of the alleged perpetrator; otherwise, he spoke with no one else (Tr. 176, 200). Respondent did not see Dodds on the fire escape, and did not discuss with anyone the possibility that Dodds might escape via the fire escape (Tr. 200, 203).

Respondent then went to the door of the apartment, knocked on the door, identified himself to Dodds, and asked him to open the door. When Dodds said "no", Respondent forced the door open with one kick. Once inside, Respondent pointed his firearm at Dodds, who was about seven or eight feet away, and ordered him to put his hands behind his back and turn around (Tr. 177-178). Dodds complied, but then flailed his arms and resisted the efforts of officers to handcuff him (Tr. 209). Respondent acknowledged that he never obtained an arrest or search warrant, but stated that no one searched the apartment (Tr. 210). Respondent also insisted that he saw no damage to the

door after he kicked it open, that it had a "slam lock" that continued to work when they left the location (Tr. 211).

According to Respondent, he forced his way into the apartment because of his concern that he was dealing with a perpetrator who had just committed a violent crime, was refusing to come out of his apartment, and might flee from police (Tr. 178). He did not believe that Dodds had any weapons or drugs (Tr. 202). Respondent kicked in the door solely with the intention of arresting Dodds (Tr. 201).

FINDINGS AND ANALYSIS

Respondent is charged with entering and searching Dodds' apartment without sufficient legal authority, and with damaging the door to the apartment. It is undisputed that Respondent did not possess a warrant, so the Court must consider whether there were exigent circumstances that justified this forced entry.

Two NYPD Legal Bulletins issued shortly before this incident alert police to the circumstances under which they may make a warrantless entry into a person's home in order to arrest a suspect: the Bulletins from December 2013 (Vol. 43, No. 5) and January 2014 (Vol. 44, No. 2) both provide "a review of established New York law governing warrantless home arrests." The December Bulletin gives a general overview of the *Payton* rule, that a suspect may not be arrested in his home without a warrant, even if probable cause exists for an arrest. The January Bulletin then reviews the "Exigent Circumstances" exception to the *Payton* rule.

Specifically, the January Bulletin states that an officer should assess whether there is "an urgent need to render aid or take action." The Bulletin goes on to list the factors to consider when determining if such a need exists, as established by the case law:

- The gravity or violent nature of the offense for which the suspect is to be charged;
- Whether the suspect is reasonably believed to be armed;
- Whether there is a clear showing of probable cause to believe that the suspect committed the crime;
- Whether there is strong reason to believe that the suspect is in the premises to be entered; and
- The likelihood that the suspect will escape if not quickly apprehended.

These factors also are set forth in the New York Court of Appeals case, *People v. McBride*, 14 NY3d 440 (2010). Both the Bulletin and the *McBride* decision note that there is no requirement that all of these factors be present, and that the ultimate issue remains whether there was an "urgent need" for the warrantless intrusion. In this case, the Court finds that there was not.

The focus here is on the facts possessed by Respondent that led him to enter Dodds' apartment without a warrant. To the extent that other officers had information that they did not share with Respondent, such as seeing Dodds leaning out the window over the fire escape, that information becomes irrelevant in assessing Respondent's decision.

As noted above, the Court found Respondent to be a forthright witness, and credits his description of the events leading up to the arrest. However, by Respondent's own account, he had limited information at the time he forced his way into the apartment: he knew only of the allegation that Person C had just been choked by Dodds, who was inside the apartment. Person C's accusation provided probable cause, and the underlying

crime involved violence; but Respondent had no knowledge that any weapons were involved, and had no reason to believe Dodds was armed inside the apartment. There was no indication that evidence connected to the case might be destroyed if the arrest were delayed. Respondent, himself, did not articulate any facts to suggest he believed escape was a reasonable possibility, particularly with approximately eight officers already on the scene.

Under the totality of the circumstances faced by Respondent upon his arrival at the scene, there was not an urgent need to kick in the door and enter the apartment without a warrant. Instead, the scene could readily have been safeguarded until police obtained proper authorization to enter the apartment. Respondent entered the apartment without sufficient legal authority, and I find him Guilty of Specification 1.

However, the Court is not persuaded that CCRB has met its burden of proving either of the remaining two specifications. Although Dodds claimed he saw Respondent searching through his closets, there was nothing to corroborate that claim, and this tribunal did not find that testimony persuasive. The Court found his account of his altercation with Person C to be fabricated, which impacted negatively on Dodds' overall credibility. The Court also notes that Dodds was evasive in answering questions about his multiple prior convictions. I credit Respondent's testimony that there was no search of the apartment, and find Respondent Not Guilty of Specification 2.

Similarly, the Court is not persuaded that CCRB has met its burden of proving that Respondent damaged Dodds' property. Dodds, himself, acknowledged that there already was some damage to the door before this incident, but claimed it was somewhat less secure against intruders after it was kicked in. Although a police damage report

prepared by Officer LaGrandier was admitted into evidence, there was no testimony from the officer explaining the basis for that report, or whether she, herself, observed any damage. Again, I credit Respondent's testimony that the slam lock continued to function and that he caused no damage to the door, and find him Not Guilty of Specification 3.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974).

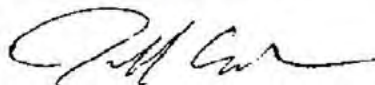
Respondent was appointed to the Department on July 7, 1999. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

CCRB asks that Respondent forfeit 30 vacation days, but that penalty seems excessive to the Court. Respondent has only been found guilty of two of the four specifications. In observing and listening to Respondent as he testified at the hearing, this tribunal was not persuaded that he intentionally or recklessly disregarded the rights of either Person A or Dodds. Rather, it was the Court's impression that any misconduct by Respondent arose more from his failure to follow the Department's standards as set forth in the Patrol Guide and Legal Bureau Bulletins, and perhaps in putting too much faith in the recommendation of his subordinate and not doing enough of his own investigation. In his 16 years with the NYPD, Respondent has risen to the rank of Captain, has no prior disciplinary history, has received multiple departmental recognitions, and was rated 10 out of 10 by his Commanding Officer.

In other cases involving improper strip searches, lower penalties have been imposed. See *Disciplinary Case No. 79000/03* (Aug. 16, 2004) (Eleven-year member with no prior disciplinary record re-instructed on appropriate procedures after wrongfully authorized strip search of individual arrested for misdemeanor trespass); *Disciplinary Case No. 83951/08* (May 12, 2010) (Five-year officer negotiates penalty of five vacation days for unlawful strip search of an individual). Similarly, there have been lesser penalties for unauthorized home entries. See *Disciplinary Case No. 2013-10137* (Nov. 10, 2014) (Twenty-five year lieutenant with no prior record reprimanded for entering apartment without sufficient legal authority); *Disciplinary Case No. 2013-9539* (Dec. 12, 2014) (Six-year police officer with no prior disciplinary record forfeits five vacation days for unlawfully entering apartment).

Taking all of this into account, I recommend that Respondent forfeit a total of eight vacation days as an appropriate penalty.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner – Trials

APPROVED

SEP 22 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
CAPTAIN THOMAS PASSOLO
TAX REGISTRY NO. 924312
DISCIPLINARY CASE NOS. 2013-10901 & 2015 13190

On his last three annual evaluations, Respondent received an overall rating of 5.0 "Extremely Competent" once and 4.5 "Extremely Competent/Highly Competent" twice. He has been awarded 37 medals for Excellent Police Duty and nine for Meritorious Police Duty. [REDACTED]

[REDACTED] Respondent has no prior formal disciplinary record.

For your consideration.



Jeff S. Adler
Assistant Deputy Commissioner – Trials